



City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

Minutes - Final City Council

Council President Kathy Lantry
Councilmember Dan Bostrom
Councilmember Melvin Carter III
Councilmember Pat Harris
Councilmember Lee Helgen
Councilmember Russ Stark
Councilmember Dave Thune

Wednesday, August 3, 2011

3:30 PM

Council Chambers - 3rd Floor

Public Hearings at 5:30 p.m.

ROLL CALL

The meeting was called to order by Council Vice President Helgen at 3:31 p.m.

Council President Lantry excused.

Present 6 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, Councilmember Dave Thune and Councilmember Russ Stark

Absent 1 - City Council President Kathy Lantry

COMMUNICATIONS & RECEIVE/FILE

- 1 [AO 11-26](#) Adjusting the 2011 Financing Budgets to accommodate the transfer of the 2011 Adopted Budget into the City's financial management system.
Councilmember Helgen highlighted the item and said he hoped the other Council members had had the opportunity read it and direct any questions to staff.
Received and Filed

- 2 [AO 11-29](#) Transferring \$12,250 of capital maintenance contingency to the Department of Parks and Recreation to complete emergency air handler repairs at Battle Creek Recreation Center.
Received and Filed

CONSENT AGENDA

Note: Items listed under the Consent Agenda will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the Consent Agenda for separate consideration.

Approval of the Consent Agenda

Item 5 was withdrawn. Items 6 and 7 were removed from the Consent Agenda for separate consideration.

Councilmember Bostrom moved approval of the Consent Agenda as amended.

Consent Agenda adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 3 [Min 11-22](#) Approving the minutes of the June 1, 8, 15, and 22, 2011 City Council meetings.

Sponsors: Lantry

Adopted

- 4 [RES 11-1389](#) Approving the Memorandum of Agreement between the City of Saint Paul and Tri-Council Operating Engineers Local 49 for the purpose of establishing premium rates in the Department of Parks and Recreation Forestry Division.

Sponsors: Lantry

Adopted

- 5 [RES 11-1387](#) Approving adverse action against all licenses held by Ashama Grocery & Meat Market, Inc., d/b/a Ashama Grocery & Meat Market, 804 University Avenue West.

Sponsors: Carter III

Withdrawn

- 6 [RES 11-1406](#) Requesting that the Planning Commission conduct a zoning study on student housing in the area surrounding the University of St. Thomas, and put into effect a moratorium on new student housing in the described area.

Sponsors: Stark

Councilmember Stark clarified that this was a bridge resolution to accompany the ordinance that would come forward later in the meeting.

Councilmember Harris asked that the Planning Commission expedite the process and set the boundaries in a way that ensured the moratorium didn't result in the problem being pushed to other areas. Councilmember Stark said staff was cognizant of that issue.

Councilmember Harris said he would like to amend the resolution to address purchase agreements executed prior to July 15. Councilmember Stark, Councilmember Harris, and Assistant City Attorney Rachel Tierney discussed appropriate language. Councilmember Stark expressed concern that the resolution would be watered down. Councilmember Harris clarified his intentions. It was decided that the matter would be laid over to the 5:30 portion of the meeting to allow time for Ms. Tierney to draft the amendment.

Councilmember Stark moved to lay the matter over to 5:30.

Laid over to the 5:30 portion of the meeting

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 7 [RES 11-1441](#) Approving major modifications to the Victoria Park Master Plan.

Sponsors: Thune

Councilmember Thune asked for a brief staff report.

Lucy Thompson, Planning and Economic Development (PED), gave a staff report on the changes to the Victoria Park Master Plan, necessitated by terms of the settlement with Exxon which limited use of the site to park space. She displayed drawings of the original and proposed plans; she noted that the new plan included the footprint for Nova Classical Academy and some associated changes to street segments. She noted some minor language changes and said the Planning Commission recommended approval of the modifications. She said there had been a lot of discussion related to concerns about the the Nova building blocking views from Sholom. She said PED was still recommending the changes with the direction that Housing and Redevelopment Authority (HRA) staff and Nova continue to talk to Sholom about alternative building configurations.

Councilmember Thune said he felt the item should be passed. He discussed the issue involving Nova and Sholom. He said discussions between Nova and Sholom had not resulted in any changes, but the new plan had strong community support. He moved approval.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

FOR DISCUSSION

- 8 [RES 11-1308](#) Declaring August 6, 2011 as Community Gardening Day 2011 in the City of Saint Paul.

Sponsors: Lantry

Councilmember Helgen invited visiting community gardeners to the podium. He read the resolution.

Nadja Berneche, Gardening Matters, accepted the resolution and made brief comments.

Councilmember Helgen moved approval.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 9 [RES 11-497](#) Approving the application with conditions, per the Deputy Legislative Hearing Officer, for an Auto Repair Garage license for Pet Enterprises Motortech Inc., d/b/a Pet Enterprises Auto Repair (ID #20100004542) at 18 Acker Street East. (Laid over from July 27 and August 3)

Sponsors: Helgen

Councilmember Helgen said they were not quite in compliance; he moved an additional one week layover.

Laid over to August 10

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

ORDINANCES

An ordinance is a city law enacted by the City Council. It is read at four separate council meetings and becomes effective after passage by the Council and 30 days after publication in the Saint Paul Legal Ledger. Public hearings on ordinances are held at the third reading.

Second Reading

- 10 [Ord 11-69](#) Amending Chapter 310.10 of The Saint Paul Legislative Code to limit amounts on the refunds of fees.

Sponsors: Lantry

Laid over to August 17 for third reading/public hearing

First Reading

- 11 [Ord 11-70](#) Preserving the status quo within a specified area in the vicinity of the University of St. Thomas pending the completion and report of a zoning study and possible action on that study, including amending the City's official controls to regulate the conversion of one- and two- and three-family homes into student housing.

Sponsors: Stark

Councilmember Stark made an amendment to correct a typographical error.

Amended; laid over to August 10 for second reading

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

The meeting was recessed at 3:54 p.m.

PUBLIC HEARINGS

The Council reconvened for public hearings at 5:32 p.m.

Present 6 - Councilmember Dan Bostrom, Councilmember Melvin Carter III, Councilmember Pat Harris, Councilmember Lee Helgen, Councilmember Dave Thune and Councilmember Russ Stark

Absent 1 - City Council President Kathy Lantry

RES 11-1406

Requesting that the Planning Commission conduct a zoning study on student housing in the area surrounding the University of St. Thomas, and put into effect a moratorium on new student housing in the described area.

Sponsors: Stark

Councilmember Stark submitted amended language as discussed at the 3:30 portion of the meeting. Councilmember Harris moved the amendment. Yeas - 6 Nays - 0

Councilmember Stark moved approval.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

12 Ord 11-59

Amending the Zoning Map of Saint Paul as recommended in the Saint Anthony Park Como 2030 Plan and Zoning Study.

Sponsors: Stark

In support:

Jon Schumacher (2183 Commonweath), St. Anthony Park Community Foundation, expressed appreciation for the City planning department for their insight and guidance, and District 12 for providing community representation.

Gavis Nelson (206 Wheeler Street S.), Planning Commission representative co-chair for the study, commended the community for their participation.

No one appeared in opposition; Councilmember Stark moved to close the public hearing.

Public hearing held and closed; laid over to August 10 for final adoption

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 13 [RES PH 11-977](#) Adopting the St. Anthony Park Como 2030 Plan as an amendment to the Saint Paul Comprehensive Plan.

Sponsors: Stark

No one appeared in opposition; Councilmember Stark moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 14 [RES PH 11-990](#) Approving the application of Sarah VanSickle for a sound level variance in order to provide amplified music and the use of a P.A. sound system from 9:00 a.m. until 10:00 p.m. on August 12, 13, & 14, 2011 during the Irish Fair of MN at Harriet Island.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 15 [RES PH 11-991](#) Approving the application of Andrea Jepsen & Brett Turner for a sound level variance in order to present amplified music during a wedding and reception from 6:00 p.m. until 11:30 p.m. on August 6, 2011 at 444 Laurel Avenue.

Sponsors: Carter III

Councilmember Carter said the staff recommendation was to change the variance period to 6:00 p.m. to 11:00 p.m.

No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution as amended.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 16 [RES PH 11-995](#) Approving the application of Steve Heckler for a sound level variance in order to provide amplified music and the use of a P.A. sound system from 5:00 p.m. until 10:00 p.m. on September 9, 2011; from 12:00 noon until 10:00 p.m. on September 10, 2011; and from 1:00 pm. until 5:00 p.m. on September 11, 2011 during the Concrete & Grass Lowertown Festival at Mears Park.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 17 [RES PH 11-997](#) Approving the application of Visit Saint Paul for a sound level variance for the use of a P.A. system and amplified music on August 19, 2011 from 10:00 p.m. until 11:30 p.m., and on August 20, 2011 from 3:30 p.m. until 6:30 p.m. and 9:00 p.m. until 11:30 p.m. during the Visa Fan Fest at Rice Park. (Laid over from August 3)

Sponsors: Lantry

In support:

Adam Johnson, Vice President of Marketing with Visit St. Paul, distributed information and asked for an amendment to add a morning session. He said the music would be "background music" in the 85 dB range, and the variance request was for the same time period that was approved when the event was in St. Paul in 2006. He said Visit Saint Paul was cognizant of the City's concerns related to noise, and hoped the Council would pass the resolution.

Councilmember Thune asked whether there had been any contact with residents of the Lowry Building or Landmark Towers. Mr. Johnson said they were unable to connect with anyone.

No one appeared in opposition; Councilmember Thune moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Thune said he thought it was a bad idea to play music until 11:30 p.m. right across the street from \$1 million to \$2 million condos. He asked to lay the matter over for a week so he could talk to Department of Safety and Inspections staff about exactly what 85 dB meant for residents of the Landmark Towers.

Councilmember Thune moved to amend the resolution to add the morning hours, and to lay the matter over for one week.

Amended (morning times added); laid over to August 10

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

18 [PH 11-16](#)

Public hearing to consider the application of the Housing and Redevelopment Authority (HRA) to rezone property at 852 Hathaway from I3 Restricted Industrial to T3M Traditional Neighborhood (Master Plan), T3 Traditional Neighborhood and I1 Light Industrial.

Sponsors: Thune

In opposition:

Gaius Nelson (206 Wheeler Street S.), planning commissioner, said the process was not transparent and did not involve the neighborhood. He displayed copies of the notice postcard and list of addresses, and said he didn't feel the issue was adequately noticed. He expressed concern about what he felt might be a conflict of interest with HRA owning the land, submitting the application, and representing another developer, and PED also being involved, and he reiterated his concern about the lack of notice for neighbors. He questioned T3 zoning for a piece of land not allowed to have buildings on it.

Councilmember Thune asked about the public process. Lucy Thompson, Planning and Economic Development (PED), said notification by postcard was standard. She said none of specific addresses about which Mr. Nelson expressed concern were being proposed for rezoning. She said it was their intention to have the entire Victoria Park Master Plan area zoned the same and it was all T3.

Councilmember Thune asked whether there had been community meetings. Ms. Thompson said that was generally left to the district councils.

Councilmember Thune moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Thune acknowledged that not everyone was happy with the change from the small condominiums and townhomes originally proposed; he said the realities of the marketplace put a stop to that type of housing. He said putting in an institutional use was seen as a great thing for the West Seventh neighborhood and was supported by the district council, and there had been a long process involving opportunities for the public to receive information and provide input. He moved approval.

Motion of Intent - Application granted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 19 [RES PH 11-1000](#) Authorizing the Department of Planning and Economic Development to apply for, accept, and amend the 2011 Budget for, an additional \$25,000 grant from the Minnesota Department of Employment and Economic Development for the Accelerate MSP Program.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 20 [RES PH 11-998](#) Approving the FY2011 Neighborhood STAR Loan and Grant Awards including business subsidy requirements.

Sponsors: Lantry

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 21 [RES PH 11-948](#) Ratifying assessments for Replacement of Lead Water Service Lines on private property during February to April 2011. (File No. 1103LDSRP, Asmt No. 114933)

Sponsors: Lantry

No one appeared in opposition; Councilmember Helgen moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 22 [RES PH 11-949](#) Ratifying assessments for Repair of Sanitary Sewer on private property during February to April 2011. (File No. SWRP1105, Asmt No. 118060)
- Sponsors:** Lantry
- No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark
- Nay:** 0
- Absent:** 1 - City Council President Lantry

- 23 [RES PH 11-965](#) Final Order approving the improvement to the alley bounded by Hoyt, Western, Nebraska, and Cumberland. (File No. 19120, Assessment No. 115000)
- Sponsors:** Helgen
- No one appeared in opposition; Councilmember Helgen moved to close the public hearing and approve the resolution.*
- Adopted**
- Yea:** 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark
- Nay:** 0
- Absent:** 1 - City Council President Lantry

LEGISLATIVE HEARING ITEMS REQUIRING DISCUSSION

- 24 [RLH RR 11-19](#) Ordering the rehabilitation or razing and removal of the structure(s) at 936 EARL STREET within fifteen (15) days after the August 3, 2011 City Council Public Hearing. (Public hearing continued from August 3) (To be referred back to November 22, 2011 Legislative Hearing and City Council public hearing continued to December 7, 2011)
- Sponsors:** Bostrom
- Legislative Hearing Officer Marcia Moermond said the taxes had recently been paid and she would like additional time to determine whether someone had interest in rehabilitating the property, which had some historic interest.*
- No one appeared in opposition; Councilmember Bostrom moved to continue the public hearing to September 7.*
- Referred to Legislative Hearing on August 23; Council public hearing continued to September 7**
- Yea:** 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 25 [RLH RR 11-34](#) Ordering the rehabilitation or razing and removal of the structures at 677-679 AURORA AVENUE within fifteen (15) days after the August 3, 2011, City Council Public Hearing.

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said Fannie Mae was going to proceed with the removal of the property and would like a chance to confirm they could use the same bids the City had received. She recommended ordering removal within 30 days with no option for rehabilitation.

No one appeared in opposition; Councilmember Carter moved to close the public hearing and approve the resolution as amended.

Adopted as amended (remove within 30 days with no option for rehabilitation)

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 29 [RLH FCO 11-183](#) Appeal of William Coleman to a Fire Certificate of Occupancy Inspection Correction Notice at 1424 ARLINGTON AVENUE EAST.

Sponsors: Bostrom

Legislative Hearing Officer Marcia Moermond asked for a two week layover to review revisions to the appeal.

No one appeared in opposition; Councilmember Bostrom moved to continue the public hearing to August 17.

Public hearing continued to August 17

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 33 [RLH RR 11-37](#) Ordering the razing and removal of the structures at 806 EDMUND AVENUE within fifteen (15) days after the August 3, 2011 City Council Public Hearing. (Public hearing continued from August 3)

Sponsors: Carter III

Legislative Hearing Officer Marcia Moermond said the County had just acquired the property through tax forfeiture and were interested in rehabilitating it; she asked to lay the matter over for 60 days to allow the County to develop plans.

Councilmember Helgen asked that the County be encouraged to move forward quickly.

No one appeared in opposition; Councilmember Carter moved to continue the public hearing to October 5.

Public hearing continued to October 5

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 43 [RLH RR 11-38](#) Ordering the razing and removal of the structures at 1027 MCLEAN AVENUE within fifteen (15) days after the August 3, 2011 City Council Public Hearing.

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond said HUD had sold the property for \$14,000 to a new owner who did not have the means to rehabilitate it and didn't know it was slated for demolition. She recommended a two week layover to allow time for the City Attorney's Office to assess the situation.

No one appeared in opposition; Councilmember Bostrom moved to continue the public hearing to August 17.

Public hearing continued to August 17

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 51 [RLH CO 11-2](#) Appeal of Richard H. Nicholson to a Correction Notice at 260 SUMMIT AVENUE.
(Public hearing held August 3; laid over from August 17)

Sponsors: Thune

Legislative Hearing Officer Marcia Moermond gave a staff report. She said the issue was a large screening wall that was in a state of significant disrepair in several areas. She reviewed the key questions related to the correction orders being appealed and said her conclusions were that the wall needed repair, the correction order was appropriate and was addressed to the correct party. She described the easement history, and said the original 1901 vacation/easement agreement with the James J. Hill family gave the City the right to maintain the walkway. She said there had been litigation on the matter in the past.

At Councilmember Harris' request Ms. Moermond clarified the location of the easement and the arrangement allowing public access.

Councilmember Thune asked whether the easement agreement mentioned a wall. Ms. Moermond said the agreement required the construction of stairs but did not, to the best of her memory, require the construction of a wall. She said, based on her research, the wall did not exist at the time of the original agreement in 1901, but was added between 1913 and 1920.

Councilmember Harris asked whether a correction order would still have been issued if the public did not have access to the steps. Ms. Moermond said it would still have been issued, because the wall was in disrepair and, in places, in a stage of collapse. She said the City routinely wrote correction orders for retaining walls that were bowing or in stages of failure. Councilmember Harris said it was a confusing issue because of the public access to the stairway, and he felt the Nicholson's attorney's letter had some merit. He asked whether the correction order was issued sooner than it would have been if there was no public access. Councilmember Helgen noted that correction orders were issued on private properties on a regular basis. Ms. Moermond said this type of issue might come to the City's attention via a complaint, a referral from another government agency, or an observation by an inspector in the course of his or her duties.

Councilmember Harris asked whether the repairs had been made. Ms. Moermond said they had not been made and could be addressed through a short term repair or complete rebuilding of the wall.

Councilmember Thune asked whether work on the wall was subject to Historic Preservation Commission (HPC) overview. Ms. Moermond said any permit pulled for work on the wall would be reviewed by the HPC. She said HPC staff was aware of the situation. In response to a question by Councilmember Thune, she said the property owner had made some repairs to the wall five or six years ago.

Appellant:

Michael Fleming appeared on behalf of the property owners. He distributed a packet of photographs and briefly outlined the property owners' position. He said the obligation to repair the wall as a public improvement was the City's with a contribution based on the benefit of the wall to the Nicholsons. He reviewed the history, and said they differed from Ms. Moermond in that they felt that what was dedicated in the original agreement was a public right-of-way. He said the stairway was not owned or controlled by the Nicholsons. He displayed a survey of Nicholson property with the easement highlighted indicating that the wall was entirely within the easement. He noted that over the years most repairs and maintenance to the wall and stairs were

done by the City. A portion of the wall collapsed in 2004, and there were discussions with City but no agreement. The Nicholsons received a criminal citation in 2008 and repaired the wall, hoping for contribution from the city. Mr. Fleming said the Nicholsons won't make any further repairs without an agreement. He said the wall was part of the public improvement and integral to stairway, and while the Nicholsons did receive some benefit from it in terms of privacy and aesthetics, an engineer's report confirmed that the wall served as a retaining wall and guardrail for the stairway, as well as the structural foundation for the stairway pavers. Mr. Fleming reiterated that the obligation to repair the wall rested upon the City, subject to agreement by the Nicholsons to pay a portion of the costs. He said the wall was in need of repair to protect against a potential liability risk; he again referred to the engineer's report and to photographs. He said the costs to make repairs recommended by the structural engineer would be extremely significant. In conclusion, Mr. Fleming said they believed the City was the owner of the easement and had the responsibility to maintain the public improvement located on the right-of-way; he cited an accepted general principle in the law that applied to easements. He said they were willing to sit down with City staff to craft a long term agreement, and would like to see the matter handled by agreement rather than enforcement or litigation.

Councilmember Thune moved to close the public hearing. Yeas - 6 Nays - 0

Councilmember Thune said there were a lot of ways to look at the issue and he was torn. He asked Mr. Fleming who built the wall. Mr. Fleming said the stairway and wall were built by the Hill family as required by the agreement with the City.

Councilmember Thune questioned whether the City would be responsible for repairing his chain link fence if it fell onto the sidewalk. Mr. Fleming said the difference in this case was that the wall was within and part of the easement.

Councilmember Thune said a good case had been made for shared liability for maintaining the wall; he said the City had been maintaining the steps and it should probably be the same for the wall. He moved a two week layover to allow time for the City Attorneys to take another look and for Public Works to talk with the Nicholsons and their attorney.

At Councilmember Helgen's request, Ms. Moermond reviewed what was before the Council, and her recommendation.

Councilmember Stark said he'd be interested to know whether comparable situations had been dealt with elsewhere in the city. Councilmember Thune said he could think of situations in which property owners were ordered to repair large stone retaining walls, which didn't seem fair given that the walls provided considerable benefit to the City.

Councilmember Harris agreed and said he hoped it would be possible to find a way to partner in the process of getting the wall fixed. He suggested that the sidewalk should be closed in the meantime in the interest of public safety. Councilmember Thune said perhaps the engineers could take one more look and decide whether that was necessary.

Public hearing held and closed; laid over to August 17

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 57 [RLH AR 11-37](#) Ratifying the assessments for Weekly Trash Hauling Services from April 6 to 27, 2011 (File No. J1110G, Assessment No. 118078)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond read the amendment to the assessment for 475 St. Clair Avenue. She said the property owner had submitted a letter outlining their plans for caring for the property going forward. Ms. Moermond said her recommendation was to approve the assessment currently being considered and reduce subsequent assessments if appropriate.

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution as amended.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

SUSPENSION ITEM

Councilmember Thune moved suspension of the rules.

Rules suspended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- [RLH TA 11-199](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1110G, Assessment No.118078 at 475 SAINT CLAIR AVENUE.

Sponsors: Thune

No one appeared in opposition; Councilmember Harris moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- 60 [RLH AR 11-38](#) Ratifying the assessments for Graffiti Removal Services from March 30 to April 23, 2011 (File No. J1112P, Assessment No. 118079)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond read amendments to the assessments for 1137 Grand and 38 West Hawthorne.

No one appeared in opposition; Councilmember Helgen moved to close the public hearing and approve the resolution as amended.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

SUSPENSION ITEM

Councilmember Helgen moved suspension of the rules.

Rules suspended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

- [RLH TA 11-245](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1112P, Assessment No. 118079 at 38 HAWTHORNE AVENUE WEST.

Sponsors: Thune

No one appeared in opposition; Councilmember Helgen moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

SUSPENSION ITEM

Rules suspended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

[RLH TA 11-194](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1112P, Assessment No. 118079 at 1137 GRAND AVENUE.

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

72 [RLH AR 11-29](#) Ratifying the assessments for Property Cleanup Services from April 1 to 27, 2011 (File No. J1113A, Assessment No. 118077)

Sponsors: Lantry

Legislative Hearing Officer Marcia Moermond amended the resolution to add an appeal for 475 St. Clair.

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution as amended.

Adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

SUSPENSION ITEM

Councilmember Thune moved suspension of the rules.

Rules suspended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

RLH TA 11-198 Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113P, Assessment No. 118077 at 475 SAINT CLAIR AVENUE. (To be laid over to October 5, 2011 public hearing.)

Sponsors: Thune

No one appeared in opposition; Councilmember Thune moved to close the public hearing and approve the resolution as amended.

Adopted

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

LEGISLATIVE HEARING CONSENT AGENDA

Note: Items listed under the Consent Agenda will receive a combined public hearing and be enacted by one motion with no separate discussion. Items may be removed from the Consent Agenda for a separate public hearing and discussion if desired.

Approval of the Consent Agenda

No one appeared in opposition; Councilmember Thune moved approval of the Legislative Hearing Consent Agenda as amended.

Consent Agenda adopted as amended

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

26 **RLH WP 11-38** Appeal of Trikin Holdings to an Egress Window Non-Compliance Determination at 697 FIFTH STREET EAST.

Sponsors: Lantry

Adopted

27 **RLH FCO 11-204** Appeal of Dale Wobbe to a Revocation of Fire Certificate of Occupancy at 869 ALBEMARLE STREET.

Sponsors: Helgen

Adopted

- 28 [RLH FOW 11-84](#) Appeal of Randy J. Anderson to a Fire Certificate of Occupancy Inspection Correction Notice at 866 ARKWRIGHT STREET.

 Sponsors: Helgen

 Adopted
- 30 [RLH FCO 11-206](#) Appeal of Dave Engstrom, Affordable Properties, to a Fire Certificate of Occupancy Inspection Correction Notice at 1757 BUSH AVENUE.

 Sponsors: Lantry

 Adopted
- 31 [RLH FOW 11-78](#) Appeal of Ted Kaehler to a Fire Certificate of Occupancy Inspection Correction Notice at 104 CLEVELAND AVENUE NORTH.

 Sponsors: Stark

 Adopted
- 32 [RLH CO 11-8](#) Appeal of Heather Matias, on behalf of Selby-Dale Cooperative, to a Correction Notice-Complaint Inspection at 666 DAYTON AVENUE.

 Sponsors: Carter III

 Adopted
- 34 [RLH WP 11-39](#) Appeal of Bryan Horton, Renewal by Andersen, on behalf of Sharon Lemay, to an Egress Window Non-Compliance Determination at 2163 FALCON AVENUE.

 Sponsors: Lantry

 Adopted
- 35 [RLH FOW 11-90](#) Appeal of Lori Kustritz, on behalf of EMK Holding Co., to a Fire Certificate of Occupancy Inspection Correction Notice at 607 GRAND AVENUE.

 Sponsors: Thune

 Adopted
- 36 [RLH WP 11-35](#) Appeal of Bryan Horton, Renewal by Andersen, on behalf of David and Janet Kowitz to an Egress Window Non-Compliance Determination at 1044 HYACINTH AVENUE EAST.

 Sponsors: Bostrom

 Adopted
- 37 [RLH FOW 11-85](#) Appeal of Brook Biggers to a Fire Certificate of Occupancy Inspection Correction Notice at 1137 HYACINTH AVENUE EAST.

 Sponsors: Bostrom

 Adopted

- 38 [RLH WP 11-44](#) Appeal of Mac Turnquist, Craft Masters Remodeling, on behalf of Jan Mehlhoff, to an Egress Window Non-Compliance Determination at 1491 KENT STREET.
Sponsors: Helgen
Adopted
- 39 [RLH RR 11-36](#) Ordering the razing and removal of the structures at 718 LAFOND AVENUE within fifteen (15) days after the August 3, 2011, City Council Public Hearing.
Sponsors: Carter III
Adopted
- 40 [RLH WP 11-34](#) Appeal of Emmanuel D'Huyvetter to an Egress Window Non-Compliance Determination at 1375 MARGARET STREET.
Sponsors: Lantry
Adopted
- 41 [RLH FOW 11-87](#) Appeal of Steve Fuller to a Fire Certificate of Occupancy Inspection Correction Notice at 1694 MARGARET STREET.
Sponsors: Lantry
Adopted
- 42 [RLH FCO
11-182](#) Appeal of Kathleen M. Henderson to a Fire Certificate of Occupancy Inspection Correction Notice at 885 MARION STREET.
Sponsors: Helgen
Adopted
- 44 [RLH WP 11-40](#) Appeal of Bryan Horton, Renewal by Andersen, on behalf of Eva Smith, to an Egress Window Non-Compliance Determination at 1830 MECHANIC AVENUE.
Sponsors: Bostrom
Adopted
- 45 [RLH FOW 11-86](#) Appeal of Michael J. Ubl to a Fire Certificate of Occupancy Inspection Correction Notice at 1647 MIDDLETON AVENUE.
Sponsors: Harris
Adopted
- 46 [RLH WP 11-37](#) Appeal of Bryan Horton, Renewal by Andersen, on behalf of Craig and Connie Hecht, to an Egress Window Non-Compliance Determination at 789 NEVADA AVENUE EAST.
Sponsors: Helgen
Adopted

- 47 [RLH VO 11-46](#) Appeal of Lisa Hollingsworth, Southern Minnesota Regional Services, on behalf of Vangulia Williams (tenant) to a Fire Certificate of Occupancy Revocation and Order to Vacate at 797 PARK STREET.

 Sponsors: Helgen

 Adopted
- 48 [RLH FOW 11-89](#) Appeal of Jason Martinetto, Re/Max Specialists, to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 2008 RAMLOW PLACE.

 Sponsors: Harris

 Adopted
- 49 [RLH WP 11-45](#) Appeal of Champion Windows of Minneapolis, on behalf of Simon Thao, to an Egress Window Non-Compliance Determination at 1569 REANEY AVENUE.

 Sponsors: Lantry

 Adopted
- 50 [RLH RR 11-39](#) Ordering the razing and removal of the structures at 998 SCHEFFER AVENUE within five (5) days after the August 3, 2011 City Council Public Hearing.

 Sponsors: Thune

 Adopted
- 52 [RLH WP 11-36](#) Appeal of Bryan Horton, Renewal by Andersen, on behalf of Julia Shepherd, to an Egress Window Non-Compliance Determination at 2009 VILLARD AVENUE.

 Sponsors: Harris

 Adopted
- 53 [RLH VO 11-37](#) Appeal of Janice Soland to a Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 934 WAKEFIELD AVENUE.

 Sponsors: Lantry

 Adopted
- 54 [RLH FOW 11-99](#) Appeal of Patrick Her and Felicia Xong Her to a Re-Inspection Fire Certificate of Occupancy With Deficiencies at 595 WELLS STREET.

 Sponsors: Bostrom

 Adopted
- 55 [RLH SAO 11-17](#) Appeal of Lesley Anizor to a Summary Abatement Order and an Excessive Consumption of Services Invoice at 692 WILSON AVENUE.

 Sponsors: Lantry

 Adopted

- 56 [RLH WP 11-42](#) Appeal of The Home Depot At-Home Services, on behalf of Thomas Lloyd, to an Egress Window Non-Compliance Determination at 264 WYOMING STREET EAST.
Sponsors: Thune
Adopted
- 58 [RLH TA 11-157](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1110G, Assessment No. 118078 at 1256 HARTFORD AVENUE.
Sponsors: Harris
Adopted
- 59 [RLH TA 11-186](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1110G, Assessment No. 118078 at 119 WINNIPEG AVENUE.
Sponsors: Helgen
Adopted
- 61 [RLH TA 11-182](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1112P, Assessment No.118079 at 1014 ARCADE STREET.
Sponsors: Bostrom
Adopted
- 62 [RLH TA 11-174](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1112P, Assessment No. 118079 at 2017 BOHLAND AVENUE.
Sponsors: Harris
Adopted
- 63 [RLH AR 11-39](#) Ratifying the assessments for Boarding and Securing services in March 2011. (File No. J1109B, Assessment No. 118080)
Sponsors: Lantry
Adopted
- 64 [RLH AR 11-40](#) Ratifying the assessments for Excessive Inspection services billed from March 14 to April 8, 2011. (File No. J1108E, Assessment No. 118084)
Sponsors: Lantry
Adopted
- 65 [RLH TA 11-158](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No. 118084 at 1270 CLEVELAND AVENUE SOUTH.
Sponsors: Harris
Adopted

- 66 [RLH TA 11-153](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No.118084 at 255 COLBORNE STREET.
Sponsors: Thune
Adopted
- 67 [RLH TA 11-155](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No.118084 at 1256 HARTFORD AVENUE.
Sponsors: Harris
Adopted
- 68 [RLH TA 11-172](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No. 118084 at 1632 SHERBURNE AVENUE (AKA 500 FRY STREET).
Sponsors: Stark
Adopted
- 69 [RLH TA 11-165](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No.118084 at 850 SIMS AVENUE.
Sponsors: Bostrom
Adopted
- 70 [RLH TA 11-152](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No. 118084 at 536 SMITH AVENUE SOUTH.
Sponsors: Thune
Adopted
- 71 [RLH TA 11-163](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1108E, Assessment No. 118084 at 811 SMITH AVENUE SOUTH.
Sponsors: Thune
Adopted
- 73 [RLH TA 11-183](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 696 FIFTH STREET EAST.
Sponsors: Lantry
Adopted
- 74 [RLH TA 11-171](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1237 FIFTH STREET EAST
Sponsors: Lantry
Adopted

- 75 [RLH TA 11-149](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 691 BEDFORD STREET.
Sponsors: Thune
Adopted
- 76 [RLH TA 11-154](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1153 CENTRAL AVENUE WEST.
Sponsors: Carter III
Adopted
- 77 [RLH TA 11-166](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. J1113A ; Assessment No. 118077 at 640 CHARLES AVENUE.
Sponsors: Carter III
Adopted
- 78 [RLH TA 11-139](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 673 CHARLES AVENUE.
Sponsors: Carter III
Adopted
- 79 [RLH TA 11-142](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 723 CHARLES AVENUE.
Sponsors: Carter III
Adopted
- 80 [RLH TA 11-178](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 981 EARL STREET.
Sponsors: Bostrom
Adopted
- 81 [RLH TA 11-141](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 604 HAWTHORNE AVENUE EAST.
Sponsors: Bostrom
Adopted
- 82 [RLH TA 11-150](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 755 HOWELL STREET NORTH.
Sponsors: Stark
Adopted

- 83 [RLH TA 11-170](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 936 LAFOND AVENUE.

 Sponsors: Carter III

 Adopted
- 84 [RLH TA 11-143](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 335 MAGNOLIA AVENUE EAST.

 Sponsors: Helgen

 Adopted
- 85 [RLH TA 11-140](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 358 MAGNOLIA AVENUE EAST.

 Sponsors: Helgen

 Adopted
- 86 [RLH TA 11-164](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No.118077 at 841 MAGNOLIA AVENUE EAST.

 Sponsors: Bostrom

 Adopted
- 87 [RLH TA 11-187](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 802 MOUND STREET.

 Sponsors: Lantry

 Adopted
- 88 [RLH TA 11-144](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 956 PROSPERITY AVENUE.

 Sponsors: Bostrom

 Adopted
- 89 [RLH TA 11-147](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1730 SEVENTH STREET EAST.

 Sponsors: Lantry

 Adopted
- 90 [RLH TA 11-176](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1339 SHERBURNE AVENUE.

 Sponsors: Stark

 Adopted

- 91 [RLH TA 11-167](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1089 SUBURBAN AVENUE.
Sponsors: Lantry
Adopted
- 92 [RLH TA 11-148](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. J1113A, Assessment No. 118077 at 1220 SYLVAN STREET.
Sponsors: Helgen
Adopted
- 93 [RLH AR 11-28](#) Ratifying the assessments for Collection of Vacant Building Fees in April 2011. (File No. VB1110, Assessment No. 118072)
Sponsors: Lantry
Adopted
- 94 [RLH TA 11-180](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. VB1110; Assessment No. 118072 at 674 HAWTHORNE AVENUE EAST.
Sponsors: Bostrom
Adopted
- 95 [RLH TA 11-145](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. VB1110, Assessment No. 118072 at 5 JESSAMINE AVENUE EAST.
Sponsors: Helgen
Adopted
- 96 [RLH TA 11-184](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. VB1110, Assessment No. 118072 at 718 ORANGE AVENUE.
Sponsors: Bostrom
Adopted
- 97 [RLH TA 11-179](#) Ratifying the Appealed Special Tax Assessment for Real Estate Project No. VB1110, Assessment No. 118072 at 676 RIVOLI STREET.
Sponsors: Thune
Adopted
- 98 [RLH TA 11-181](#) Deleting the Appealed Special Tax Assessment for Real Estate Project No. VB1110, Assessment No. 118072 at 299 STINSON STREET.
Sponsors: Helgen
Adopted

ADJOURNMENT

Councilmember Carter moved to adjourn the meeting at 6:51 p.m.

Meeting adjourned

Yea: 6 - Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, Councilmember Helgen, Councilmember Thune and Councilmember Stark

Nay: 0

Absent: 1 - City Council President Lantry

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